

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

PAMELA J. DeWITT,

Plaintiff,

vs.

**Jo Anne B. Barnhart,
Commissioner, Social Security
Administration,**

Defendant.

CASE NO. 8:05CV455

MEMORANDUM AND ORDER

This matter is before the Court on the affidavit and motion to proceed in forma pauperis (Filing No. 2) filed by the Plaintiff, Pamela J. DeWitt.

The Court notes that Jo Anne B. Barnhart, in her capacity as Commissioner of Social Security, is the proper party Defendant in this case. 42 U.S.C. § 405(a) & (b); *Clarke v. Chater*, 903 F. Supp. 29, 30 (D. Neb. 1995). The Court advises the Plaintiff that the administrative law judge is not a proper party defendant in this case.

Upon review of the pleadings filed,

IT IS ORDERED:

1. The Plaintiff may, within ten (10) days of the filing of this order, file an Amended Complaint naming the Defendant in her proper capacity
2. Upon the filing of an Amended Complaint naming the Defendant as stated above, the Clerk shall issue the proper summonses;
3. The Plaintiff's motion for leave to proceed in forma pauperis (Filing No. 2) is granted, and the filing of the Complaint or amended Complaint shall not incur any payment of fees;

4. If requested to do so, the United States Marshal shall serve all process in this case without prepayment of fees from the plaintiff or security therefor. In making such a request, the Plaintiff must complete the Marshal's Form 285, to be submitted to the Marshal with the completed summons forms and copies of the Amended Complaint;
5. This Order is entered without prejudice to the Court later entering an order taxing costs in this case. No one, including the Plaintiff, is relieved by this Order from the obligation to pay or to reimburse taxable costs after the completion of this action; and
6. Absent the timely filing of an Amended Complaint or adherence to the procedures described in this Order, this case may be dismissed without further communication from the Court.

DATED this 23rd day of December, 2005.

BY THE COURT:

S/Laurie Smith Camp
United States District Judge